

Exhibit 12

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF TEXAS
3 MARSHALL DIVISION
4 HUAWEI TECHNOLOGIES CO., ((
5 LTD.) (CIVIL DOCKET NO.
6) (2:16-CV-52-JRG-RSP
7 VS.) (MARSHALL, TEXAS
8) ()
9 T-MOBILE US, INC., ET AL.) (SEPTEMBER 29, 2017
10) (9:05 A.M.

11 MOTION HEARING

12 BEFORE THE HONORABLE JUDGE ROY S. PAYNE

13 UNITED STATES DISTRICT JUDGE

14

15 APPEARANCES:

16 FOR THE PLAINTIFF: (See Attorney Attendance Sheet docketed
in minutes of this hearing.)

17

18 FOR THE DEFENDANTS: (See Attorney Attendance Sheet docketed
in minutes of this hearing.)

19

20 COURT REPORTER: Shelly Holmes, CSR-TCRR
Official Reporter
United States District Court
Eastern District of Texas
Marshall Division
100 E. Houston Street
Marshall, Texas 75670
(903) 923-7464

21

22

23

24

25 (Proceedings recorded by mechanical stenography, transcript produced on a CAT system.)

I N D E X

September 29, 2017

4		Page
5	Appearances	1
6	Hearing	3
7	Court Reporter's Certificate	52

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]

11 THE COURT: All right. Before we move to that, I'd
12 like to take a recess. And if I could see two counsel for
13 each party back in chambers -- and if there's only one
14 counsel here, then you don't have to call for help, but I
15 just -- anyway, thank you. We'll take a recess.

16 LAW CLERK: All rise.

17 (Recess.)

18 LAW CLERK: All rise.

19 THE COURT: Thank you. Please be seated.

20 Mr. Barkan, I -- I have had the opportunity during
21 the recess to visit with Judge Gilstrap, and I communicated
22 to him the position that you passed on to me on behalf of
23 Huawei during the break, and he understands the desire of
24 the Plaintiff to go forward and the logistical issues
25 involved with bringing in witnesses and the like. But he

1 has decided that under the circumstances, given the way this
2 case has been narrowed now, that the most efficient use of
3 the Court's resources and the parties' resources is to delay
4 the trial of this case, the 52 matter, until it can be put
5 together with what at this point we think would be the 56
6 matter so that the Court is going to go forward on Monday
7 with jury selection for the second case, not -- not Huawei,
8 but the Packet Intelligence case, I believe, which is the
9 case behind. And the next trial in this series between
10 Huawei and T-Mobile will be the 55 case, which will proceed
11 in November as scheduled.

12 And I understand that -- that the Plaintiff would
13 prefer the Court to go forward differently, but given the
14 resources that are available and the, I think, relatively
15 small significance that is left in the 52 case in the
16 overall scheme of the issues between the parties, that's the
17 decision that the Court has made.

18 And I called you up because I figured you would be
19 the one who would have the most to say about that, and I
20 wanted to give you an opportunity to do it. It -- I believe
21 that the decision has been made, but I still am giving you a
22 chance to be heard, and it's -- there are a few decisions
23 that can't be undone if -- if there's a serious enough
24 issue.

25 MR. BARKAN: That's -- Your Honor, there are a

1 couple of items. One is I do think it would advance the
2 dispute. You know, as I mentioned, this is Huawei's first
3 time as a Plaintiff in the United States, at least in a
4 patent case.

5 THE COURT: That will be coming soon, one way or
6 the other.

7 MR. BARKAN: And this was not something we had
8 anticipated. Would it be possible to have a short recess so
9 we can confer with the client and --

10 THE COURT: Yes.

11 MR. BARKAN: -- then respond?

12 THE COURT: That -- that's fine. I'll be happy to
13 do that. How much time do you think we need?

14 MR. BARKAN: 15 minutes, would that --

15 THE COURT: All right. We'll -- we'll check with
16 you in 15 minutes then.

17 MR. BARKAN: Thank you, Your Honor.

18 THE COURT: All right. Thank you.

19 LAW CLERK: All rise.

20 (Recess.)

21 LAW CLERK: All rise.

22 THE COURT: Thank you. Please be seated.

23 Mr. Barkan?

24 MR. BARKAN: Thank you, Your Honor.

25 We, of course, are disappointed. We were ready to